

22
12-11-01
MMA

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CINDY L. RIGG,

Plaintiff

v.

**COUNTY OF DAUPHIN, DAUPHIN
COUNTY SHERIFF'S
DEPARTMENT, and RALPH
McALLISTER,**

Defendants.

CIVIL NO. 1:CV-01-0967

FILED
HARRISBURG, PA

DEC 11 2001

MARY E. D'ANDREA, CLERK
Per MMA
Deputy Clerk

ORDER

Before the court is Defendants County of Dauphin and Dauphin County Sheriff's Department's motion to dismiss or for a more definite statement. Also before the court is the motion of Defendant Ralph McAllister to dismiss or in the alternative for summary judgment. Material to the disposition of the pending motions are the employment relationships among Plaintiff, Mr. McAllister, the Dauphin County Sheriff's Department, and Dauphin County. In response to Defendants' motions, Plaintiff contends that "if the Defendants are to be given any relief . . . it should be in the form of requiring the Plaintiff to file an amended Complaint after a preliminary course of discovery. [Plaintiff requests] 60 days for this discovery." (Pl. Cons. Br. in Opp. to Defs. Mots., "Pl. Br." at 10 n.6.)

Upon consideration of the complaint and the forementioned motions, the court agrees that a preliminary course of discovery into the employment relationships of the parties is warranted. Following this discovery, Plaintiff will have the opportunity to file an amended complaint that contains allegations related to said employment relationships. Furthermore, in amending her complaint,

Plaintiff shall note the specific constitutional or statutory theory upon which she bases her claim for relief in Count I of her complaint.¹

Accordingly, **IT IS HEREBY ORDERED THAT:**

- (1) Defendants County of Dauphin and Dauphin County Sheriff's Department's motion to dismiss or for a more definite statement is **DENIED as MOOT** without prejudice to file a new motion following the filing of Plaintiff's amended complaint as discussed in ¶ 4 of this order;
- (2) Defendant McAllister's motion to dismiss or for summary judgment is **DENIED as MOOT** without prejudice to file a new motion following the filing of Plaintiff's amended complaint as discussed in ¶ 4 of this order;
- (3) Plaintiff shall have 60 days from the date of this order to engage in preliminary discovery into the employment relationships among Defendants.
- (4) On or before February 10, 2001, Plaintiff shall file an amended complaint which includes (a) a statement of the legal basis for Count I of Plaintiff's complaint and (b) allegations regarding the employment relationships among the parties.

Dated: December 11, 2001



SYLVIA H. RAMBO
United States District Judge

¹ Plaintiff argues that Defendants have a "clear understanding of the *facts* upon which this lawsuit is based." (Pl. Br. at 5)(emphasis added.) However, Plaintiff has failed to indicate the specific legal basis for Count I, and this needs to be included in the amended complaint.

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

Re: 1:01-cv-00967 Rigg v. County of Dauphin

True and correct copies of the attached were mailed by the clerk to the following:

Spero T. Lappas, Esq.
205 State St.
Harrisburg, PA 17108-0808

Frank J. Lavery Jr., Esq.
James D. Young, Esq.
Lavery & Associates, P.C.
301 Market Street, Suite 800
Harrisburg, PA 17108-1245

Michael J. Kane, Esq.
3902 Golfview Drive
Mechanicsburg, PA 17050-2243

CC:

Judge	(X)	() Pro Se Law Clerk
Magistrate Judge	()	() INS
U.S. Marshal	()	() Jury Clerk
Probation	()	
U.S. Attorney	()	
Atty. for Deft.	()	
Defendant	()	
Warden	()	
Bureau of Prisons	()	
Ct Reporter	()	
Ctroom Deputy	()	
Orig-Security	()	
Other _____	()	

MARY E. D'ANDREA, Clerk

DATE: December 11th, 2001

BY:


Mary E. D'Andrea
Deputy Clerk